

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA	:	
	:	
v.	:	C.A. No. 06-107S
	:	
ISAAC CHANDLER	:	

MEMORANDUM AND ORDER

In this matter, Defendant Isaac Chandler filed his *pro se* Motion to Vacate Sentence on January 27, 2010. (Document No. 47). Defendant submitted an Application to Proceed without Full Prepayment of Fees and Affidavit on March 22, 2010. (Document No. 53). The matter of Defendant's Application to Proceed without Full Prepayment of Fees has been referred to me for determination. 28 U.S.C. § 636(b)(1)(A); LR CV 72(a).

Although 28 U.S.C. § 1915(a) authorizes a district court to permit the "commencement, prosecution or defense of any suit, action or proceedings, civil or criminal...without prepayment of fees..." there is no fee required to file a 28 U.S.C. § 2255 Motion such as Defendant's Motion to Vacate. See Rules Governing § 2255 Proceedings, R. 3, Adv. Comm. 1976 Adoption. Nevertheless, the Advisory Committee Notes indicate that a Motion to Proceed IFP should be considered, and granted where appropriate, as it permits "a streamlining of the process to allow quicker disposition of these motions." Id.

In this case, Defendant's completed Application is out of date. Defendant obtained a certification from a prison official as to his inmate account, but he did not attach a copy of "all receipts, expenditures, and balances during the last six months in [his] institutional accounts." In order to determine his eligibility, Defendant must complete and file an updated Application To

Proceed Without Prepayment of Fees and Affidavit. The Application contains a “Notice to Prisoner” portion which directs an incarcerated applicant to obtain a statement certified by an “appropriate institutional officer” of “all receipts, expenditures, and balances during the last six months in your institutional accounts.”

The Clerk is directed to provide Defendant with a copy of the current Application. If Defendant wishes to pursue his Application, he shall return the completed Application to the Court by April 23, 2010.

So ordered.

PER ORDER:

/s/ Jeannine Noel
Deputy Clerk

ENTER:

/s/ Lincoln D. Almond
Lincoln D. Almond
United States Magistrate Judge
March 25, 2010